

**OPINION  
49-150**

September 29, 1949            (OPINION)

OFFICERS

RE: Judges' Retirement

This is in reply to your letter of September 27 in which you ask for an opinion of this office as to whether judges of the supreme court retired under Chapters 206 and 207 of the 1949 Session Laws are required to pay the assessments provided for by Section 2 of Chapter 206. Chapter 206 provides for the retirement of judges who have reached the age of seventy years and who have served in a judicial capacity for eighteen years.

Section 4 of said Act provides that any such retired judge shall for the remainder of his life receive an annual salary equal to one-half of the salary provided by law for his office at the time of his retirement, which salary shall be paid monthly as other judicial salaries are paid, and which salary shall not be subject to an assessment of 5% provided by Section 2 of this Act. Therefore, a judge who retires under Chapter 206 is not required to pay the assessments.

Chapter 207 provides for the retirement of a judge who has become unable because of permanent disability to perform his judicial duties of the office during the remainder of the term for which he shall have been elected.

Section 2 of Chapter 207 provides that when a judge of the supreme court or a judge of the district court shall be retired under the provisions of this Act, he shall receive the compensation allotted to his office for the remainder of his said term. It will be observed, however, that Chapter 207 does not exempt a judge who retires thereunder from the payment of assessments. Furthermore, he continues to draw his full salary the same as active judges.

In view of the fact, therefore, that the statute does not specifically exempt a judge retired under the conditions set forth from the payment of assessments and the further fact that he continues to draw his full salary in the same manner as the active judges of the court, it would be the opinion of this office that he would be required to pay the assessments to the end of the term for which he was elected.

WALLACE E. WARNER

Attorney General